

PEARSON, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA, <i>et al.</i> ,	)	
	)	CASE NO. 4:17CV101
Plaintiffs,	)	
	)	
v.	)	JUDGE BENITA Y. PEARSON
	)	
TRUMBULL METROPOLITAN HOUSING	)	
AUTHORITY, <i>et al.</i> ,	)	
	)	<b><u>MEMORANDUM OF OPINION AND</u></b>
Defendants.	)	<b><u>ORDER</u></b> [Resolving <a href="#">ECF No. 68-1</a> ]

Pending is Defendants’ Supplemental Brief to Defendants’ Motion for Summary Judgment [ECF No. 56] Regarding Counts 1, 2, and 8 of Plaintiffs’ Intervening Complaint. [ECF No. 68-1](#). Plaintiffs have filed a response in opposition. [ECF No. 73](#). Defendants replied. [ECF No. 74](#). For the reasons that follow, the motion ([ECF No. 68-1](#)) is granted.

**I. Procedural Background**

Defendants requested leave to file, *instanter*, a supplemental brief in support of their pending motion for summary judgment. [ECF No. 68](#). Defendants contend that the two-year statute of limitations applicable in [§ 1983](#) cases [Ohio Revised Code \(“O.R.C.”\) § 2305.10](#) bars: (1) Counts One and Two, in which Plaintiffs allege that, under [42 U.S.C. § 1983](#), Defendants deprived them of a hearing regarding Defendants’ October 2014 decision to terminate their participation in the voucher program; and (2) Count Eight, in which Plaintiffs allege that, Defendants violated the United States Housing Act of 1937, [42 U.S.C. §§1437d](#),

(4:17CV101)

[1437f](#), by terminating them from the Section 8 housing choice voucher program [in October 2014] without providing them with written notice of the opportunity to request an informal hearing, of Plaintiffs' Intervening Complaint. ECF Nos. [68-1;16](#). For good cause shown, the Court granted Defendants' motion for leave to file ([ECF No. 68](#)). See [May 10, 2018 non-document Order](#).

In opposition, Plaintiffs assert that Ohio's four-year statute of limitations, [O.R.C. § 2305.09\(D\)](#), is the proper statute of limitations in [§ 1983](#) cases. [ECF No. 73](#).

## II. Law and Analysis

In [Wilson v. Garcia, 471 U.S. 261, 105 S. Ct. 1938, 85 L.Ed.2d 254 \(1985\)](#), the Supreme Court "directed federal courts to apply the single most analogous state personal injury statute of limitations to claims brought under 42 U.S.C. § 1983." [Ross v. Ross, 1997 WL 693081, at \\*1 \(6th Cir. Oct. 31, 1997\)](#). "In [Owens v. Okure, 488 U.S. 235, 109 S.Ct. 573, 102 L.Ed.2d 594 \(1989\)](#), the Supreme Court further clarified that when a state has multiple statutes of limitations for different categories of personal injury actions, the residual personal injury statute of limitations applies." [Kuhnle Bros., Inc. v. Cty. of Geauga, 103 F.3d 516, 519 \(6th Cir. 1997\)](#). Following [Wilson](#) and [Owens](#), the Sixth Circuit, in [Browning v. Pendleton, 869 F.2d 989 \(6th Cir. 1989\)](#), held that the "limitations period for § 1983 actions arising in Ohio is the two-year period in Ohio Revised Code ("O.R.C.") § 2305.10." [Id.](#) Accordingly, since [Browning](#), it is well-settled that, [O.R.C. § 2305.10](#) is the appropriate statute of limitations in [§ 1983](#) cases. See [Ross, 1997 WL 693081, at \\*1](#) ("Ohio's two year statute of limitations contained in Ohio Rev.Code Ann. § 2305.10 . . . is to be applied to civil rights claims arising in Ohio."); [LRL](#)

(4:17CV101)

[Properties v. Portage Metro Housing Auth., 55 F.3d 1097, 1105 \(6th Cir. 1995\)](#) (explaining that the Sixth Circuit “squarely addressed this issue in *Browning v. Pendleton*, 869 F.2d 989 (6th Cir.1989) (en banc), and definitively held that “the appropriate statute of limitations for 42 U.S.C. § 1983 civil rights actions arising in Ohio ... requires that actions ... be filed within two years after their accrual.”); [Fuller v. Cuyahoga Metro. Housing Auth., 2007 WL 987309, at \\* 3 \(N.D. Ohio Apr. 2, 2007\)](#) (citing *Browning* for the proposition that, “the statute of limitations for filing a federal § 1983 claim is determined by state law; in Ohio, the period is two years”).

The Court finds Defendants’ motion ([ECF No. 68-1](#)) to be well-taken. Plaintiffs filed their Intervening Complaint on March 27, 2017. [ECF No. 16](#). It is undisputed that Counts One, Two, and Eight, of Plaintiffs’ Intervening Complaint, are based on Defendants’ termination of Plaintiffs’ housing voucher in October 2014. *See* ECF Nos. [68-1 at PageID#: 2316](#); [73 at PageID#: 2474](#). Accordingly, Plaintiffs’ claims are barred by the two-year statute of limitations applicable to [§ 1983](#) claims, and therefore, dismissed. [Ohio Rev. Code § 2305.10](#); [\*Browning v. Pendleton\*, 869 F.2d at 992](#); [\*Stevenson v. Willis\*, 579 F. Supp. 2d 913, 921 \(N.D. Ohio 2008\)](#) (explaining that the Supreme Court in *Wright v. City of Roanoke Redevelopment & Housing Authority*, 479 U.S. 418, 107 S.Ct. 766, 93 L.Ed.2d 781 (1987), addressed the use of § 1983 in conjunction with the United States Housing Act, and found a private right of action in the Housing Act); *see also* [\*Hunter v. Underwood\*, 362 F.3d 468, 477 \(8th Cir. 2004\)](#) (holding that “Section 1983 is the proper means by which a public housing tenant may challenge the action of a state public housing agency that violates the United States Housing Act.”).

(4:17CV101)

### III. Conclusion

For the reasons stated above, Defendants' Supplemental Brief to Defendants' Motion for Summary Judgment ([ECF No. 68-1](#)) is granted.<sup>1</sup> The case is closed. A separate judgment entry will issue.

IT IS SO ORDERED.

May 17, 2018  
Date

/s/ Benita Y. Pearson  
Benita Y. Pearson  
United States District Judge

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<sup>1</sup> On May 10, 2018, the Court granted Defendants' partial Motion for Summary Judgment ([ECF No. 56](#)) as to Counts Three, Four, Five, Nine, Fourteen, and Fifteen. [ECF No. 70](#).